



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: July 8, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002014

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On April 14, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 31, 2014 eligibility redetermination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this notice.

## Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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## Decision

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NY State of Health Number: [REDACTED]  
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[REDACTED]  
[REDACTED]  
[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that, effective February 1, 2015, you are eligible to receive up to \$182.00 monthly of advance premium tax credits and, if you select a silver-level qualified health plan, for cost-sharing reductions as of December 31, 2014?

## Procedural History

The Marketplace received your updated financial assistance application for health insurance on December 30, 2014.

That same day, the Marketplace prepared a preliminary eligibility redetermination that, based on an expected annual income of \$28,000.00, you are eligible for up to \$182.00 monthly of advance premium tax credits (APTC) and, if you select a silver-level qualified health plan (QHP), for cost-sharing reductions (CSR) effective February 1, 2015.

On December 31, 2014, the Marketplace issued a notice of eligibility redetermination that was consistent with the December 30, 2014 preliminary redetermination.

On March 11, 2015, you spoke to the Marketplace's Account Review Unit and appealed the eligibility redetermination insofar as the amount of advance premium tax credit to which you are entitled.

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On April 14, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was closed at the end of the hearing.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You testified that you expect to file your 2015 tax return as Single and you do not expect to claim anyone as a dependent for the 2015 tax year.
- 2) According to your Marketplace application, your expected 2015 annual income is \$28,000.00.
- 3) You currently reside in Orange County, New York.
- 4) You testified that \$182.00 monthly is not a sufficient amount of tax credits on your annual income of \$28,000.00.
- 5) You further testified that it is a hardship for you to pay \$312.00 monthly in health insurance premiums.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Advance Premium Tax Credit

The advance premium tax credit (APTC) is available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the 2014 federal poverty level (FPL); (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP; and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through the NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2015 is set by federal law at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 200% but less than 250% of the FPL, the expected contribution is 7.75% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

### Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

### Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic

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circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, you can consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for information and an application.

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$182.00 per month.

In the application that was submitted on December 30, 2014, you attested to an expected yearly income of \$28,000.00, and the eligibility determination relied upon that information.

According to the record you are the only person in your tax household.

You reside in Orange County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$362.46 per month.

An annual income of \$28,000.00 is 239.93% of the 2014 federal poverty level (FPL) for a one-person household. At 239.93% of the FPL, the expected contribution to the cost of the health insurance premium is 7.75% of income, or \$180.72 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$362.46 per month) minus your expected contribution (\$180.72 per month), which equals \$181.74 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be \$182.00 per month.

The second issue is whether the Marketplace properly determined that you were eligible for cost-sharing reductions (CSR).

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$ 28,000.00 is 239.93% of the 2014 FPL, the Marketplace correctly found you to be eligible for CSR.

Since the December 31, 2014 eligibility redetermination properly stated that, based on the information you provided, you were eligible for APTC of up to \$182.00 per month and eligible for cost-sharing reductions, it is correct and is AFFIRMED.

## **Decision**

The December 31, 2014 eligibility redetermination, as made on December 30, 2014, is AFFIRMED.

**Effective Date of this Decision:** July 8, 2015

## **How this Decision Affects Your Eligibility**

This decision does not change your eligibility. You remain eligible for up to \$182.00 monthly of advance premium tax credit and for cost-sharing reductions if you select a silver-level qualified health plan.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months after the date of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c))

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

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## **If You Have Questions about this Decision (Customer Service Resources):**

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- By fax: 1-855-900-5557

## **Summary**

The December 31, 2014 eligibility redetermination, as made on December 30, 2014, is **AFFIRMED**.

This decision does not change your eligibility. You remain eligible for up to \$182.00 monthly of advance premium tax credit and for cost-sharing reductions if you select a silver-level qualified health plan.

If you are interested in requesting a hardship exemption, you can find additional information and an application at the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)).

## **Legal Authority**

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).



**A Copy of this Decision Has Been Provided To:**

[REDACTED]  
[REDACTED]  
[REDACTED]